

**AFTAB PUREVAL  
HAMILTON COUNTY CLERK OF COURTS**

**COMMON PLEAS DIVISION**

**ELECTRONICALLY FILED  
April 5, 2021 05:19 PM  
AFTAB PUREVAL  
Clerk of Courts  
Hamilton County, Ohio  
CONFIRMATION 1052651**

**JAMES JAY WITEMYRE**

**A 2101182**

**vs.**

**GE AVIATION SYSTEMS  
NORTH AMERICA LLC**

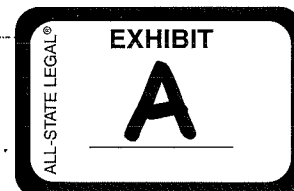
**FILING TYPE: INITIAL FILING (OUT OF COUNTY) WITH JURY  
DEMAND**

**PAGES FILED: 8**

EPR200



VERIFY RECORD



IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

JAMES JAY WITEMYRE  
1702 Monticello Drive  
Ft. Wright, KY 41011

PLAINTIFF,

VS.

GE AVIATION SYSTEMS NORTH AMERICA,  
LLC

Serve Registered Agent via Certified Mail:  
CT Corporation System  
4400 Easton Commons Way  
Columbus, OH 43219

DEFENDANT.

: CASE NO.: \_\_\_\_\_

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VERIFIED COMPLAINT

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Comes the Plaintiff, James Jay Witemyre, and for his Complaint against the Defendant,  
GE Aviation Systems North America, LLC, hereby states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. The Plaintiff, James Jay Witemyre ("Witemyre"), is and was at all times relevant to this action a resident of Ft. Wright, Kenton County, Kentucky.
2. Witemyre was born on April 20, 1963.
3. The Defendant, GE Aviation Systems North America, LLC, ("GE" or "GE Aviation") is a Delaware corporation with a manufacturing plant and office located in Evendale, Hamilton County, Ohio.

4. This Court has personal jurisdiction over the Defendant by virtue of its substantial business operations within Hamilton County.
5. This Court has subject matter jurisdiction over this case because the claims asserted herein arise under Ohio law and the amount in controversy exceeds the jurisdictional minimum of the court.
6. Venue is proper in this Court pursuant to Ohio R. Civ. P. 3(C)(3), as the court of general jurisdiction in the County where the Defendant conducted activity giving rise to this action.

#### FACTS

7. Plaintiff re-asserts the above allegations as if fully stated herein.
8. From June 25, 1986 – Summer 1992/re-hired November 2000 until on or about May 31, 2020, Witemyre was employed as a Sales Representative with GE Aviation.
9. Witemyre is also a licensed engineer.
10. As a sales representative, Witemyre was compensated with a combination of a salary and sales commission from the customer contracts he secured.
11. While Witemyre's job was based in GE's Evendale, Ohio location, it often required travel to meet with current and potential clients. From 2015 until on or about January 2019, Witemyre was assigned to the Asia and Pacific sales territory.
12. Witemyre was extremely successful in the Asian Pacific territory, amassing a substantial base of customers and contracts for GE Aviation. He cultivated a book of clients and contacts in the Asian Pacific region through years of hard work and dedication.
13. As a result of his experience, skill, and success as a sales representative, Witemyre was well-compensated for his work.

14. In 2017, at the age 54, Witemyre was diagnosed with Melanoma, a type of skin cancer.
15. While treatment for Witemyre's condition was mostly successful, it hindered his ability to travel for a few months.
16. Witemyre's diagnosis and treatment for Melanoma did not diminish his ability to successfully perform the duties of his job.
17. As a side effect of his Melanoma treatment, Witemyre suffers from a long-term condition called Lymphedema. Lymphedema is a condition caused by a blockage in the lymphatic system. The main symptoms of Lymphedema are swelling and discomfort in a person's arms and legs. First/Business class was prescribed by Witemyre's physician to provide more leg room, and also a chair that will recline to prevent fluid accumulation in Witemyre's extremities.
18. Because of this condition, per his doctor's instructions by letter dated September 27, 2017, Witemyre needed to travel first class/business class when flying to have the additional leg room afforded by that class.
19. GE Initially accommodated this request and upgraded Witemyre to first class/business class.
20. Not long after GE initially permitted Witemyre to travel first class/business class, in Summer of 2018, GE told Witemyre that it was taking the Asian Pacific sales territory away from him.
21. GE subsequently assigned the Asian Pacific Territory to a significantly younger, less experienced, and lower-paid salesperson than Witemyre.
22. Witemyre was re-assigned to a domestic sales territory where he had little to no experience working and no clients. He essentially had to start from scratch.

23. As a result of being reassigned to a new territory where he had no established clients, Witemyre was paid much less after being reassigned.

24. On May 31, 2020, GE Aviation terminated Witemyre's employment.

25. Around the same time Witemyre was fired, GE Aviation fired many other older and highly-paid salespeople and managerial employees.

#### **COUNT I – AGE DISCRIMINATION**

26. Plaintiff reasserts the above allegations as if fully stated herein.

27. On or about March 31, 2020, Witemyre was aged older than forty years.

28. Witemyre was physically able to perform the duties and otherwise met the requirements of his job as a salesman.

29. GE Aviation terminated Witemyre's employment without just cause.

30. Witemyre was fired in order to permit the hiring or retention of employees who performed substantially the same job duties as Witemyre, but who were substantially younger and paid less.

31. As a result of its conduct described herein, GE Aviation has discriminated against Witemyre because of his age in violation of R.C. 4112.14 and is therefore liable to Witemyre for the relief requested herein.

#### **COUNT II – DISABILITY DISCRIMINATION**

32. Plaintiff reasserts the above allegations as if fully stated herein.

33. From 2017 onward, as a result of his Melanoma diagnosis and resultant Lymphedema, Witemyre had a disability as defined in R.C. 4112.01(13).

34. Flying first class was a reasonable accommodation for Witemyre's disability that would have permitted him to continue to perform his job and maintain the Asian Pacific sales territory.
35. GE re-assigned Witemyre to a less lucrative sales territory and effectively reduced his pay in order to save money, rather than continue to make reasonable accommodations for Witemyre's disability.
36. GE re-assigned Witemyre's sales territory to an employee with less experience and who did not have a disability.
37. In reassigning Witemyre and paying him less in order to avoid accommodating his condition, GE discriminated against Witemyre in the terms and conditions of his employment because of a disability, in violation of R.C. 4112.02(A).
38. GE also terminated Witemyre's employment to permit the hiring or retention of an employee without a disability to perform essentially the same job as Witemyre.
39. In terminating Witemyre, GE discriminated against Witemyre because of his disability in violation of R.C. 4112.02(A).
40. GE is therefore liable to Witemyre for the relief permitted by R.C. 4112.99.

**COUNT III - CONTRACT**

41. Plaintiff reasserts the above allegations as if fully stated herein.
42. Witemyre had a commission structure that paid him a commission for contracts he solicited which eventually closed.
43. Witemyre obtained commitments for substantial orders of GE products prior to his termination.

44. It is Witemyre's belief that many of the orders he sold to customers closed after his termination and GE failed to pay the earned commissions.

45. GE breached its employment agreement with Witemyre when it failed to pay commissions due.

**COUNT IV – UNJUST ENRICHMENT**

46. Plaintiff reasserts the above allegations as if fully stated herein.

47. Based on the allegations in Count III, GE was unjustly enriched by retaining commissions due to Witemyre.

**PRAYER FOR RELIEF AND JURY DEMAND**

**WHEREFORE**, the Plaintiff, James Jay Witemyre, prays for judgment against the Defendant, GE Aviation, as follows:

- a. Summons served upon the Defendant, GE Aviation.
- b. Damages in an amount in excess of the jurisdictional minimum of this Court.
- c. Compensation for lost wages and lost benefits beginning on May 31, 2020.
- d. For a trial by jury on all issues so triable.
- e. For his costs herein expended, including his attorney's fees.
- f. For all other relief to which he may appear to be entitled in law and equity.

Respectfully submitted,

ADAMS LAW, P.L.L.C.

/s/ Stacey L. Graus

Stacey L. Graus, Esq. (OH #0058661)  
40 West Pike Street  
Covington, Kentucky 41011  
Telephone: (859) 394-6200  
Direct Fax: (859) 392-7253  
sgraus@adamsattorneys.com  
*Counsel for Plaintiff,*  
*James Jay Witemyre*

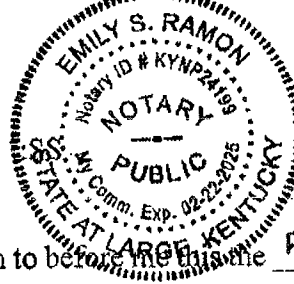


VERIFICATION

Comes the Plaintiff, James Jay Witemyre, and having been first duly cautioned and sworn, states that he has read the foregoing Complaint and that all of the facts and statements contained therein are true and correct as he verily believes.

STATE OF Kentucky )  
COUNTY OF Kenton )

James Jay Witemyre  
JAMES JAY WITEMYRE, Plaintiff



Acknowledged, subscribed and sworn to before me this the 5 day of April, 2021  
by JAMES JAY WITEMYRE.

Emily Ramon  
Notary Public  
My Commission Expires: \_\_\_\_\_  
Notary ID # \_\_\_\_\_



**AFTAB PUREVAL  
HAMILTON COUNTY CLERK OF COURTS**

**COMMON PLEAS DIVISION**

**ELECTRONICALLY FILED  
April 5, 2021 05:19 PM  
AFTAB PUREVAL  
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Hamilton County, Ohio  
CONFIRMATION 1052651**

**JAMES JAY WITEMYRE**

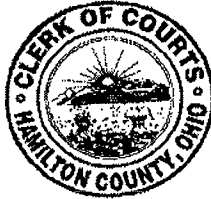
**A 2101182**

**vs.**

**GE AVIATION SYSTEMS  
NORTH AMERICA LLC**

**FILING TYPE: WRITTEN REQUEST FOR SERVICE (CERTIFIED  
MAIL)**

**PAGES FILED: 1**



COMMON PLEAS COURT  
HAMILTON COUNTY, OHIO

James Jay Witemyre

CASE NO. \_\_\_\_\_

VS

GE Aviation Systems  
North America, LLC

DOCUMENT TO BE SERVED & ITS FILED DATE  
Verified Complaint - 4.5.2021

PLAINTIFF/DEFENDANT REQUESTS:

- ☒ CERTIFIED MAIL SERVICE  
☐ PERSONAL SERVICE  
☐ PROCESS SERVICE  
☐ REGISTERED INTERNATIONAL

- ☐ EXPRESS MAIL SERVICE  
☐ REGULAR MAIL SERVICE  
☐ RESIDENCE SERVICE  
☐ FOREIGN SHERIFF

ON:

- 1) GE Aviation Systems North America, LLC  
Serve: Reg. Agent: CT CORPORATION SYSTEM  
4400 Easton Commons Way  
Columbus, OH 43219

3) \_\_\_\_\_  
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Stacey L. Graus, Esq.

ATTORNEY

40 West Pike St., Covington, KY 41011

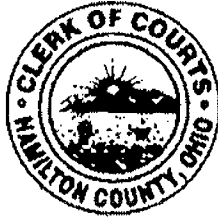
ADDRESS

859-394-6200

PHONE NUMBER

#0058661

ATTORNEY NUMBER



**AFTAB PUREVAL  
HAMILTON COUNTY CLERK OF COURTS**

**COMMON PLEAS DIVISION**

**ELECTRONICALLY FILED  
April 5, 2021 05:19 PM  
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Hamilton County, Ohio  
CONFIRMATION 1052651**

**JAMES JAY WITEMYRE**

**A 2101182**

**vs.**

**GE AVIATION SYSTEMS  
NORTH AMERICA LLC**

**FILING TYPE: CLASSIFICATION**

**PAGES FILED: 1**



COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

CLASSIFICATION FORM  
WWW.COURTCLERK.ORG

AFTAB PUREVAL  
CLERK OF COURTS

CASE NUMBER: \_\_\_\_\_ PLAINTIFF: JAY WITEMYRE

PURSUANT TO SUPERINTENDENCE RULE 4, THIS CASE WAS ORIGINALLY FILED AND DISMISSED

UNDER CASE NUMBER: \_\_\_\_\_ BY JUDGE \_\_\_\_\_

PLEASE INDICATE CLASSIFICATION INTO WHICH THIS CASE FALLS (please only check one):

- ☐ Other Tort – C360  
☐ Personal Injury – C310  
☐ Wrongful Death – C320  
☐ Vehicle Accident – C370

- ☐ Professional Tort – A300  
☐ Personal Injury – A310  
☐ Wrongful Death – A320  
☐ Legal Malpractice – A330  
☐ Medical Malpractice – A340

- ☐ Product Liability – B350  
☐ Personal Injury – B310  
☐ Wrongful Death – B320

- ☐ Worker's Compensation  
☐ Non-Compliant Employer – D410  
☐ Appeal – D420

- ☐ Administrative Appeals – F600  
☐ Appeal Civil Service – F610  
☐ Appeal Motor Vehicle – F620  
☐ Appeal Unemployment – F630  
☐ Appeal Liquor – F640  
☐ Appeal Taxes – F650  
☐ Appeal Zoning – F660

- ☐ Certificate of Qualification – H600

- ☒ Other Civil – H700-34  
☐ Appropriation – H710  
☐ Accounting – H720  
☐ Beyond Jurisdiction – 730  
☐ Breach of Contract – 740  
☐ Cancel Land Contract – 750  
☐ Change of Venue – H760  
☐ Class Action – H770  
☐ Convey Declared Void – H780  
☐ Declaratory Judgment – H790  
☐ Discharge Mechanics Lien – H800  
☐ Dissolve Partnership – H810  
☐ CONSUMER SALES ACT (1345 ORC) – H820  
☐ Check here if relief includes declaratory judgment, injunction or class action recovery – H825  
☐ Habeas Corpus – H830  
☐ Injunction – H840  
☐ Mandamus – H850  
☐ On Account – H860  
☐ Partition – H870  
☐ Quiet Title – H880  
☐ Replevin – H890  
☐ Sale of Real Estate – H900  
☐ Specific Performance – 910  
☐ Restraining Order – H920  
☐ Testimony – H930-21  
☐ Environmental – H940  
☐ Cognovit – H950  
☐ Menacing by Stalking – H960  
☐ | Repo Title – Transfer of Title Only – 970  
☐ | Repo Title – With Money Claim – H980  
☐ Injunction Sexual Predator – 990  
☐ SB 10 – Termination – H690  
☐ SB 10 – Reclassification – H697

DATE: 4/5/2021

ATTORNEY (PRINT): STACEY L. GRAUS

OHIO SUPREME COURT NUMBER: #0058661

COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

JAMES JAY WITEMYRE  
**PLAINTIFF**

Use below number on  
all future pleadings

-- VS --

No. A 2101182  
SUMMONS

GE AVIATION SYSTEMS NORTH AMER  
**DEFENDANT**

GE AVIATION SYSTEMS NORTH AMERICA LLC  
CT CORPORATION SYSTEM REG AGENT D-1  
4400 EASTON COMMONS WAY  
COLUMBUS OH 43219

You are notified  
that you have been named Defendant(s) in a complaint filed by

JAMES JAY WITEMYRE  
1702 MONTICELLO DRIVE  
FT WRIGHT KY 41011

Plaintiff(s)

in the Hamilton County, COMMON PLEAS CIVIL Division,  
**AFTAB PUREVAL, 1000 MAIN STREET ROOM 315,**  
**CINCINNATI, OH 45202.**

You are hereby summoned and required to serve upon the plaintiff's attorney, or upon the plaintiff, if he/she has no attorney of record, a copy of an answer to the complaint within twenty-eight (28) days after service of this summons on you, exclusive of the day of service. Your answer must be filed with the Court within three (3) days after the service of a copy of the answer on the plaintiff's attorney.

Further, pursuant to Local Rule 10 of Hamilton County, you are also required to file a Notification Form to receive notice of all future hearings.

If you fail to appear and defend, judgement by default will be rendered against you for the relief demanded in the attached complaint.

Name and Address of attorney  
STACEY LYNN GRAUS  
40 WEST PIKE ST 1  
PO BOX 861  
COVINGTON KY 41011

AFTAB PUREVAL  
Clerk, Court of Common Pleas  
Hamilton County, Ohio

By RICK HOFMANN

Deputy

Date: April 7, 2021



D131590018



VERIFY RECORD



ELECTRONIC CERTIFIED MAIL SERVICE RETURN  
 SUMMONS & COMPLAINT  
 A 2101182 D1  
 GE AVIATION SYSTEMS NORTH AMERICA LLC  
 FILED: 04/12/2021 6:54:59

Date Produced: 04/12/2021

HAMILTON COUNTY CLERK OF COURTS:

The following is the delivery information for Certified Mail™ item number 7194 5168 6310 0937 8798.  
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Signature X	<i>[Handwritten Signature]</i>
Printed Name	DANIEL D KEVEY

Address of Recipient :

Delivery Address	4900 Easton Ste 125 Comm.
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Sincerely,  
 United States Postal Service

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